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**REMARKS****Agents of Record**

For the captioned application, the undersigned attorney advises that the contact agent of record, Alfred Macchione, has relocated his practice to the firm of:

McCarthy Tétrault LLP  
Customer Service #: 27155  
Toronto Dominion Bank Tower  
P.O. Box 48, Suite 4700  
Toronto, Ontario  
M5K 1E6 Canada

Applicant has consented to having contact agent retain responsibility as agent of record. Undersigned attorney advises that in total the following agents of record are also now associated with the same customer number and have the authority to also act on behalf of the Applicant for the above matter:

Alfred Macchione	Reg. No. 40,333	
Robert Nakano	Reg. No. 46,498	(undersigned attorney)
Brian Gray	Reg. No. 30,017	
Kenneth Bousfield	Reg. No. 40,460	
Christopher Hunter	Reg. No. 52,528	

Undersigned attorney also advises that the attorney reference number has been changed to

Atty's Docket No.: T01215-0002 US (123081-339536).

Applicant requests that the USPTO update its records for this application accordingly.

**Summary of Office Action**

Examiner rejected claims 1, 3, 5-10, 12, 13, 15, 17-22, 24-23, 34-37, 40 and 43-45 under 35 U.S.C. 102(b) in view of U.S. Patent No. 5,119,368 to Hiltner (herein "Hiltner") and rejected claims 23, 29 and 46 under 35 U.S.C. 103(a) in view of Hiltner and art deemed by the Examiner to be known by one of ordinary skill in the art.

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**IN THE SPECIFICATION**

Applicant amends the specification to provide further detail on aspects already shown in the Figures and noted in the specification as filed. Per the specification as filed, the invention provides a phase delay for replicated data streams as they are created and provided to the input ports of a communication device being tested. In an embodiment, the phase delay is dependent on a length of a buffer associated with a data stream and the transmission rate associated with the data stream. As such, the embodiment provides variable-length delays for the replicated data streams where the data streams do not necessarily start on a cell transmission border associated with the output data stream. Such timing characteristics of the phase delays are clearly shown in the figures and specification as filed. See, for example, Figure 2 and Equation 1 and its related description at page 6, line 4 through page 7, line 7 of the specification. Amendments to the specification provided herein simply more clearly identify those features.

**IN THE CLAIMS**

In this Response, Applicant amends independent claims 1, 6, 8, 10, 13, 18, 20, 22, 33, 44, 45 and dependent claims 3, 15, 19, 24, 25 and 46. Applicant also adds new claims 47, 48, 49 and 50. There are 44 claims on file with the present amendment. Applicant believes that no claim fees are payable with the presentation of the amendments and additions to the claims herein. However, Commissioner is authorized to charge Agent's Deposit Account 15-0633 for any such fees; if necessary.

Independent claims 1, 6, 8, 10, 13, 18, 20, 22, 33, 44 and 45 are amended to further define granularity aspects of the phase delay identified therein for data streams. New dependent claims 47, 48, 49 and 50 further define aspects of their respective delays in regards to buffers and transmission rates associated with their data streams. Dependent claims 3, 15 and 46 are amended to adjust their respective dependencies in view of new claims 48, 49 and 50, respectively. Dependent claims 19, 24 and 25 are amended to refine definitions relating to their respective buffers, in view of amendments made to antecedent claims within their respective families. Exemplary support for the amendments is provided in Figures 2 and 4 and at the

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specification in Equation 1 and its related description at page 6, line 4 through page 7, line 7 of the specification.

Applicant traverses rejection of claims 1, 6, 8, 10, 13, 18, 20, 22 and 33 as follows.

Applicant's invention relates to a system and method for providing replicated data streams which may be used as data sources to test a communication device. A feature of the invention is that phase delays may be introduced to the data streams to delay individual data streams by differing amounts, with a further feature of the invention being that the delayed data streams do not necessarily have to start at a cell boundary associated with the output data stream. In an embodiment, the delay may be based on a buffer size and a transmission rate for the delayed data stream. Amendments made to the independent claims noted above provide further detail on these aspects of the invention.

Meanwhile, Hiltner does not teach all aspects of Applicant's invention as provided in the independent claims, as amended herein. In fact, Hiltner specifically teaches away from having such phase delays as claimed in the independent claims as it is specifically directed towards a time division multiplex (TDM) system, which requires regular transmission of data elements which are always time-aligned on data element boundaries of the output streams. See in Hiltner at column 1 at lines 45 to 50. Further all delays shown to the data streams in Hiltner are always time-aligned on data element boundaries of the output data streams. See, for example, the timing diagrams in Figs. 5F, G and H, the boundary alignment of the data stream on line 17 in Fig. 6 and the use of frame alignment circuits 700, 800 and 900 in Figures 7, 8 and 9.

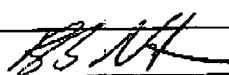
In view of traversal of rejection of the above noted independent claims, Applicant traverses rejections of dependent claims 3, 5-9, 12, 17, 19-22, 24-32, 34-37, 39, 40, 43, 45 and 46. But also, Hiltner does not teach all aspects of Applicant's invention as provided in the dependent claims. In particular, Applicant's invention defines that a delay for an individual data stream may be determined from the size of its associated buffer and the transmission rate of the data stream. Such features are provided within dependent claims 19, 24, 25, 47 and 48. Further still, Applicant's invention contemplates having buffers of differing sizes amongst the data streams; see for example Equation (1) and its related discussion in the specification. Such features are claimed in dependent claims 48 and 50. None of the above features is taught in

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Hiltner. In fact, Hiltner simply teaches using buffers having the same size, as they are consistently identified throughout Hiltner with no size differentiation noted therebetween. See, for example, FIFO buffers 403 in Figure 4, which are each associated with different data streams.

In view of all comments above, Applicant traverses rejections of claims 1, 3, 5-10, 12, 13, 15, 17-22, 24-30, 34-37, 40 and 43-45 based on 35 U.S.C. 102(b) and of claims 23, 39 and 46 based on 35 U.S.C. 103(a). Applicant further submits that in view of arguments provided above claims 1, 3, 5-10, 12, 13, 15, 17-40, 43-50, as amended and added, are allowable.

By way of the present amendment, this application is believed to be in condition for allowance and such action in due course is earnestly solicited. The Examiner is invited to contact the undersigned by telephone to discuss this case further, if necessary.

	Respectfully submitted,
March 4, 2004	
Date	Robert H. Nakano (Registration No. 46,498) McCarthy Tétrault LLP Suite 4700 Toronto Dominion Bank Tower Toronto-Dominion Centre Toronto, Ontario M5K 1E6 Canada